

Women for an Australian Republic

Submission to Senate Legal and Constitutional References Committee Inquiry into an Australian Republic

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Women for an Australian Republic

www.womenrep.netspeed.com.au

women.republic@webone.com.au

PO Box 3260
MANUKA ACT 2603

National Convenor
Sarah Brasch

Women for an Australian Republic

Women's Expectations of an Australian Republic

- ❖ **Women expect** to participate equally in the development of the Republic, drafting a republican constitution, in Constitutional Conventions and to have the same opportunity as men to be head of state. They expect to be leaders of constitutional change.
- ❖ **Women expect** that the Republic will enshrine their rights as well as those of our Indigenous peoples.
- ❖ **Women expect** that Indigenous people are able to participate in the development of the Republic, in head of state selection processes and have the opportunity to be nominated for head of state.
- ❖ **Women expect** the costs of implementing the Republic and conducting the selection for head of state to be as low as possible.
- ❖ **Women expect** that the head of state in a Republic will be drawn from any walk of life and that the head of state salary and lifestyle will be appropriately modest and cost-effective.
- ❖ **Women expect** that appropriate and special arrangements will be made to educate everyone about the Republic and to facilitate easy participation in the head of state selection by all voters.
- ❖ **Women expect** Australia to be a Republic with a republican constitution so that the country can move forward by developing a modern and more responsive and flexible system of government.

Key Points in the Submission

- ❖ The Australian Republic and the role of its head of state will evolve over time.
- ❖ No person in a role of responsibility acts as a single entity in practice ie the head of state will be a member of the Australian community and advised by her or his own staff. She or he should be free to consult whomever they wish in carrying out their role.
- ❖ The head of state should be a ceremonial job with the power to issue writs for elections and to resolve federal parliamentary impasses by calling a general election. The powers should be codified and non-justiciable.

- ❖ Voters are seeking more change rather than less, which raises serious questions about the likelihood of any minimalist Republic models (including the parliamentary appointment models) succeeding at referendum.
- ❖ Republic supporters need to be more attuned to the desires of voters, particularly women and Indigenous voters.
- ❖ The choice of a model for a Republic is likely to come down to direct election versus indirect election, probably some close approximation of the model proposed for the 1999 referendum.
- ❖ It is quite acceptable to use a good working model from overseas with appropriate amendments for Australian circumstances, if that will help the Republic to get up.
- ❖ Care will need to be taken to ensure that any plebiscite does not become a de facto referendum on the head of state selection model.
- ❖ The fewer eligibility restrictions applied to the head of state job, the better.
- ❖ It will be important to separate the selection of the head of state from elections for the House of Representatives.
- ❖ Simplicity will be the essence in finding models and options that are acceptable to voters.
- ❖ It is important to find ways to remove obstacles to achieving the Republic, rather than proliferating arguments.
- ❖ The current Governor-General role has all the hallmarks of the functions that used to be carried out by Queens and Kings; this needs to be changed to suit a modern, unique democracy and voting population.
- ❖ Seeing the person in the top job as an authority figure (ie patriarchal) or as a ruler or an umpire, not a mechanism for implementing the will of the people is inappropriate.
- ❖ The only way to truly achieve “government by the people” is to support direct election of the head of state.
- ❖ Voting for the head of state should be voluntary to remove any suggestion that the job carries with it, a political mandate that could rival the elected government of the day.
- ❖ It is important to focus on implementing a republican form of government, not on who will or might get the top job.

Women for an Australian Republic

Head of State Selection Process Proposal

Direct Election Model

Eligibility

Australian citizenship

Nomination

Nomination by an Australian citizen or group of Australian citizens other than a registered political party

Shortlisting

Undertaken by the Head of State Selection Committee, operating under the auspices of the Australian Electoral Commission, which will determine an even number of candidates between six and ten, at least half of whom are women and at least one of the ten being an Indigenous person.

At least half the members of the Head of State Selection Committee should be female. There should also be Indigenous representation on this body.

Election

Election will use preferential voting with a single transferable vote. Voting will be voluntary. To vote for the head of state, there will be separate registration at polling booths if another compulsory voting election is being conducted at the same time.

Where election of the head of state does not coincide with a general election, voluntary voting will be online backed up by postal voting with arrangements made for those electors unable to access/use either online or postal voting. Robson rotation for names to be used on the voting paper.

Parliament should make laws to set limits on and regulate (campaign) expenditure by and for candidates participating in a selection process for head of state and to provide advertising and publicity support through a single body authorised and funded by the Federal Parliament. This body, ie a Head of State Selection Committee, would have the power to hear and rule on complaints made by any Australian citizen about breaches of campaign and advertising provisions.

Tenure

The head of state would hold office for six years and be ineligible for re-election.

Removal

The head of state may be dismissed on the grounds of misbehaviour, or physical or mental incapacity. Any Australian citizen may make a complaint about the head of state to the Head of State Selection Committee, which will determine how the matter is to be dealt with and what action is to be taken.

The head of state may resign at any time if she or he wishes to do so.

If a serious complaint is proceeded with, the Head of State Selection Committee would make a recommendation for dismissal to the Prime Minister who would take it to a joint sitting of the Federal Parliament within 30 days for ratification.

Vacancies

If the head of state does not see out her or his term or is absent from the job for any reason, the vacancy would be filled by the person obtaining the next highest vote and so on down the list of candidates at the previous election.

Powers

Reserve and non-reserve powers should be codified and should not be justiciable.

All obsolete and inappropriate powers should be removed and re-assigned or abolished.

The head of state should not have the power to dismiss the Prime Minister, only to call an election to let the people decide.

Women for an Australian Republic

Responses to Questions in the Discussion Paper

1. Should Australia consider moving towards having a head of state who is also the head of government?

No - but the real question to be asked is whether Australia should become a Republic ie **governed by the people** rather than by a constitutional monarch.

During the lead up the 1999 referendum, there was sustained questioning by women as to whether Australia needed a head of state separate from the head of government. Some saw proposing to continue with a head of state at the apex of our federal system as a ploy to continue ensuring that there were additional layers of unnecessary male leaders without accountability nor offering much opportunity for women to share the power and the perks. This view persists.

WfaAR believes that it is necessary for Australia to have a separate head of state job, that is largely ceremonial; has codified powers and preferably elected by the people.

2. What powers should be conferred on the head of state?

The *formal powers* of the head of state should be to:

- (a) issue writs for general elections on the recommendation of the Prime Minister (s.32 of current Constitution)
- (b) resolve impasses in the Federal Parliament.

The head of state should have the power to dissolve the Parliament if money bills are rejected by the Senate because the elected government is unable to function without legally appropriated funds and if, at the same time, the Prime Minister does not recommend a dissolution to the head of state within a (short) fixed time. (WfaAR notes that the risk of such an event occurring, ie the rejection of money bills, is extremely low.)

The intent of proposed (b) is be to make it clear to the Prime Minister and her or his Ministers that they should manage the business of government responsibly and diligently and resolve any conflicts that threaten the continuity of and/or the reputation of the Australian Government.

The *role* of the head of state job should be mainly ceremonial and representational.

The purpose of a ceremonial head of state would be to relieve the Prime Minister (and the Deputy Prime Minister) of the burden of ceremonial head of state functions. The

roles of head of state representative and head of government have become confused in recent times because the Prime Minister has assumed an increasing number of head of state ceremonial and representational roles since 1996 eg attending the funeral of the Queen Mother; leading the Bali bombing commemorations etc for reasons that are not entirely clear.

Other current roles of the Governor-General as the British monarch's representative should be altered as follows:

- commander in chief of armed forces (should be done by the Prime Minister as this role is carried out in practice by the Government; this change would also remove uncertainty over to whom the armed services owe their loyalty ie the Government or the Queen)
- signing bills into legislation (should be done by the Prime Minister; abolish Federal Executive Council)
- appointing Ministers (should be done by the Prime Minister who selects them)
- appointing judges (should be done by the Attorney-General)
- prerogative of mercy (abolish)

to remove vestigial remnants of the absolute power of monarchy and concepts such as "Her Majesty's Government, loyal Opposition" etc.

3. What powers (if any) should be codified beyond those currently in the Constitution?

All powers should be codified.

WfaAR notes, however, that new situations as presented in 2003 prior to the resignation of Dr Peter Hollingworth indicate that the Government and supporting bureaucracy, including the head of state's own staff, are more than capable of resolving any unforeseen circumstances that arise.

4. Should some form of campaign assistance be available to nominees and , if so, what assistance would be reasonable?

Campaign assistance should be publicly funded and restricted to those funds – private and individual campaigning should be prohibited by law.

A modest amount of money should be appropriated as determined by the Australian Government of the day. Adequate funding should be made available to assist those voters who do not have access to print and internet media and those with disabilities.

WfaAR most preferred arrangement for the " appointment/election campaign" would be for the Head of State Selection Committee to prepare material about the candidates and issue it to each voter along with a voting paper ie short written biographical details and photographs similar in style to those used for university senate elections plus limited national print media exposure (similar in style to that run by *The*

Canberra Times ahead of ACT Government elections); national radio exposure (eg a five or ten minute interview) and national television information advertisements or interviews to introduce candidates (these could be in the style of the candidates' own choosing). Arrangements should be made for those voters who do not access print, radio, internet and visual media.

Voting papers should have the candidates names rotated using the Robson rotation method used for ACT Government elections to reduce the effect of the donkey vote.

The use of "campaign funds" should be monitored by the Head of State Selection Committee in the same way as the \$15m which was made available to the YES and NO campaigns for the 1999 referendum.

5. Should/Can political parties be prevented from assisting or campaigning on behalf of nominees? If so, how?

Not prevented, but with limited campaign funds/resources eg staff available and subject to legislation as outlined in Question 4, resources will not be able to be supplemented by political parties.

6. If assistance is to be given, should this be administered by the Australian Electoral Commission or some other public body.

Head of state selection campaigns should be overseen by a separate commission/board/body (referred to in this submission as the Head of State Selection Committee for convenience) that functions as part of and is serviced by staff of the Australian Electoral Commission.

There is no reason to create additional costly administrative overheads by establishing a separate body that would not always be functioning depending on the time between selection processes.

In selection mode, this body would oversee the conduct of appointment or election processes and returns on campaign funding. It would also mediate and arbitrate disputes and complaints.

If the head of state is to be dismissed, this body would make a recommendation to the Prime Minister to take to the Federal Parliament.

7. If the Australian head of state is to be directly elected, what method of voting should be used?

WfaAR suggests preferential voting as this is familiar to voters at federal elections. The run-off method would increase costs by requiring several votes.

8. If direct election is the preferred method for election of a non-executive president, will this lead to a situation where the president becomes a rival centre of power to the Government? If so, is this acceptable or not. If not, can the office of head of state be designed so that this situation does not arise.

The voting system can be designed so this does not arise. WfaAR believes that voting for a ceremonial head of state should be voluntary. This removes any perception that the head of state has a political mandate to threaten the elected government of the day.

9. Who should be eligible to put forward nominations for an appointed head of state? For an elected head of state?

All Australian citizens should be eligible to put forward nominations for both.

10. Should there be any barriers to nomination, such as nominations from political parties, or candidates being current or former members of parliament.

Nominations should be by individual citizens or organisations other than political parties. All citizens should be eligible for nomination. Any unnecessary restrictions on eligibility could reduce the pool of suitable candidates and should be avoided because they may lead to discrimination. If candidates are current members of parliament, their seat should be declared immediately vacant if they are successful.

11. Should there be a maximum and/or minimum number of candidates?

WfaAR believes that the number of candidates should be an even number between six and ten – at least half should be women and at least one, an Indigenous person.

12. Should there be a minimum number of nominators required for a nominee to become a candidate?

No, one of the roles of the Head of State Selection Committee would be to determine the final six to ten candidates from all those nominated- the process would be similar to the one used to determine recipients of Australian honours (with refinements and improvements where necessary) and would need to start at least 12 months ahead of an expected selection process.

13. What should the head of state be called, Governor General, President of the Commonwealth of Australia or some other title?

The head of state should have the title preferred by voters. WfaAR prefers President of the Commonwealth of Australia but would be satisfied with either Governor-General or President of the Commonwealth of Australia (the Republic should not be called “Republic of Australia”). Government House at Yarralumla should be renamed Commonwealth House.

14. What should be the length of term of office for head of state?

Six years as for Senators in a State and tied to the timing for Senate elections as far as possible. This would also remove confusion between head of state and head of government by separating the appointment of the head of state from elections for the House of Representatives which result in the election of the party which provides the Prime Minister.

15. Should a head of state be eligible for re-appointment or re-election?

No.

16. Should there be a limit on the number of terms an individual may serve as head of state.

NA – see Question 15.

17. Who or what body should have the authority to remove the head of state from office?

The standard provisions of physical or mental incapacity, or misbehaviour used in federal legislation should apply. The Parliament would act on recommendations from the Head of State Selection Committee, the joint sitting in this case representing the voters.

The need for removal of the head of state could not be expected to be a major risk factor in appointing or electing a head of state. Indeed, it is more likely that the person would resign due to ill-health, or for personal reasons, or be asked to resign.

18. On what grounds should the removal from office of the head of state be justified? Should these grounds be spelled out?

See Question 17.

19. How should a casual vacancy be filled?

Temporarily, by the candidate obtaining the next highest vote and so on down the ticket (subject to availability) while a new selection is arranged eg if voluntary voting, could be done by online or postal vote (or other method for those not able to use online or postal voting processes).

20. What should be the eligibility requirements for head of state?

The only one should be that the person is an Australian citizen.

WfaAR would like to see the situation where it is as likely that a teacher, nurse, mayor or community worker can become head of state as it is a member of the High Court, a senior military officer, former State Governor, former senior politician etc.

21. On what grounds should a person be disqualified from becoming a head of state

If they are not an Australian citizen.

22. Should the head of state have power to appoint and remove federal judges?

No, this should be done by the Attorney-General.

23. Should the head of state have the prerogative of mercy?

No, this power is not widely used and is too reminiscent of the absolute power exercised by a monarch ie the monarch is “above” the elected government.

24. Should the head of state be free to seek constitutional advice from the judiciary and, if so, under what circumstances?

The head of state should be free to seek advice from whomever they wish to assist them carry out their role.

25. What is the best way to deal with the position of the states in a federal Australian republic?

This matter should be dealt with by a Constitutional Convention ahead of the federal referendum on the Republic.

26. Should there be an initial plebiscite to decide whether Australia should become a republic, without deciding on a model for that republic.

Yes – that would clarify what weight, if any, attaches to the title of the head of state and the various methods for selection, all of which in their own right (except for the parliamentary appointment model), are untested up to now.

27. Should there be more than one plebiscite to seek views on broad models? If so, should the plebiscites be concurrent or separated?

WfaAR would prefer that the matter be referred to a single referendum but accepts that this may be impractical and that many voters would see this as “too rushed” after their experience of the 1999 referendum. We prefer as few plebiscites as possible,

preferably only one, but realise that more may be required depending on what is discovered after the first one and if it is necessary to further test tolerance for the models/options on offer.

28. Should voting for a plebiscite be voluntary or compulsory?

Compulsory – only voting for the head of state should be voluntary. Plebiscites should be held, to the maximum extent, at same time as federal elections to reduce costs.

29. What is the best way to formulate the details of an appropriate model for a republic? A convention? A parliamentary inquiry? A Constitutional Council of experts?

A parliamentary inquiry is being held now and a Constitutional Convention met in 1998 to consider all the models under consideration now. As this campaign has been underway since the early 1990s and most voters exposed to the issues and models for some considerable period, there is little need for events which prolong the choice process. Effort should be directed to public explanatory material and education about the options.

At least one Constitutional Convention should be held before the final Republic referendum to deal with outstanding issues eg role of the States and other details which emerge during the plebiscite/referendum process and which are suitable to be referred to such a convention. All delegates to Constitutional Conventions should be elected and at least 50% should be women with provisions made to ensure that our Indigenous peoples are represented.

WfaAR supports regular Constitutional Conventions on the many other constitutional issues and problems which beset the current Constitution. All delegates should be elected with at least 50% of delegates, women and ensuring Indigenous participation and representation.

30. What is the preferred way for a process to move towards an Australian republic?

WfaAR proposes:

A plebiscite (compulsory voting) with the following questions:

1. Should Australia become a Republic?
2. Should the head of state be called President or Governor-General or another title?
3. Should the head of state have clearly defined powers?

4. Should the selection of the head of state be by:

- direct election by the people
- a Head of State Selection Committee
- the Government of the day
- the Prime Minister (current arrangement)
- an Electoral College
- a 2/3 majority of a joint sitting of the national parliament on the recommendation of the Prime Minister?

followed by a **second plebiscite (compulsory voting)** if necessary.

Referendum (compulsory voting)

Should Australia become a Republic?

Election (voluntary voting)

Number the following squares from 1 to 10 in order of preference to choose your preferred candidate for Australia's head of state:

[See Attachment B for more details]

Women for an Australian Republic

Additional Commentary

1. Introduction

1.1 Women for an Australian Republic (WfaAR) is pleased to make this submission to the Inquiry by the Senate Legal and Constitutional References Committee into the Republic.

1.2 WfaAR puts forward for the Committee's consideration, alternative options and views for advancing Australia's move to a Republic. We aim to present simple and practical ways of removing current impediments to that move taking place.

1.3 Women seek to participate equally in this important national debate. Women will be crucially interested in the development of a republican constitution for Australia. The new constitution must, at the very minimum, spell out the equality of women and men before the law and recognise our Indigenous peoples.

1.4 Women want equal opportunity with men to become the head of state of an Australian Republic; to participate equally in all aspects of the appointment or election of the head of state; to contribute equally to the development of the Republic after it is introduced and participate equally in drafting a republican constitution.

1.5 WfaAR was established in February 1999 in the lead-up to the referendum on the Republic. We supported a YES vote for both propositions put at that referendum and joined other groups in favour of a Republic in the YES Coalition. WfaAR is a virtual group which exists online (Note 1).

1.6 The purpose of WfaAR is to provide a place where the opinions and views of all women citizens, as well as those of female journalists; commentators; historians; political scientists; politicians and lawyers about an Australian Republic and associated issues can be recorded and easily accessed.

1.7 More information about WfaAR is at Appendix 1.

2. WfaAR Views on the Republic/Head of State Models

2.1 WfaAR has these views on the models offered to date:

McGarvie Model – too minimalist and has the appearance of entrenching power in the establishment by leaving the choice of head of state to a small group of people - almost certain to be men - for the foreseeable future. This is not acceptable to women.

Chosen by Prime Minister with ratification by Federal Parliament – this indirect election model had its day in 1999. A new model which reflects the prevailing public

mood, which has hardened since 1999, is required. But it is the model most likely to see a woman or Indigenous person as head of state in the shortest possible time. This model is too remote from the people especially if the head of state is selected by the Prime Minister and only endorsed by a joint sitting of the federal Parliament. The head of state nomination process is crucial to this model but did not receive enough attention or publicity ahead of the 1999 referendum.

Electoral College – an indirect election model, impractical and very costly; has potential for the assured involvement of women in the selection process if one female and one male representative from each federal electorate is chosen to undertake the final vote for the head of state.

Direct Election – simple and less costly; likely to be preferred by voters.

2.2 Although WfaAR prefers a model for head of state which allows women equal participation and an equal chance of becoming head of state, we have no hard and fast preference because our major objective is to see that Australia becomes a Republic, not a Republic with a particular way of appointing/electing the head of state.

2.3 We see the choice coming down to either a minimalist Republic (with an appointed or directly elected head of state) or a Republic bringing greater change (with an appointed or directly elected head of state). While WfaAR prefers a Republic bringing greater change to Australia's structure of government by introducing a purely ceremonial head of state, implying a transfer of some powers from the monarch substitute to the head of government or other Ministers, we would be satisfied with a minimalist Republic with a parliamentary appointment process with or without codified powers; a direct election method with or without codified powers; either compulsory or voluntary voting etc. We would be satisfied by the new head of state having the same powers as the Governor-General has currently or identical to the Irish President if that will assist the Republic to be accepted. Nor is the title of the head of state, a sticking point for WfaAR.

2.4 In order to determine the head of state in the Republic, we see that the Head of State Selection Committee is crucial (and has the hardest job) to sift and decide on who the candidates for head of state will be, either for appointment or vote. This is a key part of the process and one about which the public will need information and assurance.

3. Major Points about the Move to An Australian Republic

3.1 WfaAR understands the current role of the Governor-General, as the head of state's representative in Australia, to be a stage in the evolution from the monarch as head of the government (definition of the Commonwealth Parliament in s.1 of the Constitution) which was acceptable - and an acceptable amount of change for the new Commonwealth - at the time of Federation. There is no reason for this to be enshrined 104 years later in vastly different political and world circumstances. The nature and status of Australia as a nation has naturally changed during this time in both its independence from Britain and in developing its own style of government ie modified Westminster. Accordingly, the roles of our head of state and our head of

government have continued to develop – and it is inconceivable that they will not again be in need of review by 2100, if not before.

3.2 WfaAR further notes that there have been several waves of republicanism in Australia. The republican debate in 2004 cannot be considered without reference to our republican history since 1788. Where we are today is a continuation of the latest wave of activism for the Republic which started in the early 1990s. Thus, we are not dealing with a new debate/campaign but one that is already around 14 years old. It should be noted that in Australia in 2004, the views of the majority of women voters will have been formed through the 1998 Constitutional Convention, education and media in the lead-up to the 1999 referendum and since, as well as publicity attaching to the British royal family and the costs to Australian taxpayers of the visit made by Prince Harry in 2003.

3.3 In particular, very recent history relating to the removal of Dr Peter Hollingworth as Governor-General in 2003 is also instructive. The events surrounding Dr Hollingworth's resignation focussed heavily on the appointment of the Governor-General solely on the recommendation of the Prime Minister to the British monarch, the lack of standards or code of conduct and measures to remove the head of state's representative whatever the circumstances (in this case, actions and allegations relating to a previous job). The fact that this resignation was achieved where there were no ground rules indicates that the role of the head of state is continuing to evolve and that the Government, the head of state's staff and the federal bureaucracy are more than capable of dealing with unforeseen issues where/when they affect the viability of our national government.

3.4 WfaAR states clearly that the move to a Republic – how it occurs, when it occurs, how the head of state is appointed/selected and the like – is the prerogative – and gift - of the Australian people. This move does not belong to constitutional lawyers and politicians but to Australian voters. This principle was stated by the National Convenor of WfaAR in her speech to the Corowa People's Conference in December 2001.

3.5 WfaAR considers that the Republic is poorly served by being characterised – or, indeed, disguised – as a change to “having an Australian head of state”. It means much more than that. There are a number of ways to achieve an Australian head of state, including the establishment of our own constitutional monarchy, for example a Queen or King of Australia, who is a citizen and who lives in Australia. This appears not to be the will of the people as polls before and after the 1999 referendum have consistently shown that a significant majority would prefer the British monarch to be replaced as our head of state (up to 90% ahead of the referendum); see Note 2.

3.6 We consider that the debate should focus on Australia becoming a republic and the benefits of that move, rather than concentrating on the process for who should/could get the “top job”. The emphasis in the debate should be on Australia adopting a republican form of government ie one which is of, for and **by** the people. It is the last factor which remains incomplete in the governance of Australia and which is certainly not met by maintaining a constitutional monarchy.

3.7 The current state of the debate is not assisted by the most public and representative face of the Republic, the Australian Republican Movement, appearing to maintain (although its members do not universally share this view) a conservative stance in favour of the Prime Ministerial appointment model that it promoted for the 1999 referendum. This model was defeated then and, if anything, since then the electorate has demonstrated even less confidence in politicians to carry out the will of the people who elected them and share power, on which that model depends. Fresh thinking and a willingness by all republicans to embrace wider, more popular options are required to get the Republic across the line at the next referendum.

3.8 WfaAR supports any model for the Republic - with the exception of that having an executive President as in the USA - that contains sufficient provisions for women to participate equally in its development and to have an equal chance of becoming head of state. WfaAR supports direct election of the head of state if these two requirements can be met.

3.9 Other women's models for the appointment/election of head of state were put forward in a joint paper by Women Into Politics and Women's Electoral Lobby for the Corowa People's Conference. This proposal was not considered at Corowa for unexplained reasons that were assumed to be because the paper did not propose a model for the Republic process (see Appendix 2). WfaAR agrees with all the basic propositions and principles expressed in this paper - particularly, recognition of community service as a selection criterion for the head of state - but considers that the proposals for eligibility are too restrictive, possibly leading to the exclusion of suitable candidates. WfaAR puts forward alternative proposals to de-politicise the position of head of state in this submission.

4. Does Australia need a Head of State?

4.1 In considering the Discussion Paper developed for this Inquiry, WfaAR was struck by the notion of whether we need a head of state or not. In theory, it would appear not ie that the head of the elected government of the day could carry out the role of head of state. Indeed, this is the case in a number of countries including South Africa, the USA, Kiribati etc. However, a number of factors appear to mitigate against such efficiency.

4.2 The first is the current role of the Governor-General as the head of state's representative in Australia. It is clear from practice that the role of Governor-General is somewhat akin to a monarch sitting at the "pinnacle of government" with powers such as the prerogative of mercy, head of the armed forces and the like vested in a person who is not elected. WfaAR considers that it would be too much change too quickly, to remove all these roles, including the vastly more onerous ceremonial ones, to the head of government, at one referendum. WfaAR considers that such changes should be implemented more slowly over a lengthy period of time and kept under review by successive Constitutional Conventions.

4.3 The second is the nature of modern government. Conferring the head of state role on the head of government would increase pressure on that job which could detract from concentration on governing particularly if there is a high ceremonial workload.

WfaAR considers that women voters would rather that the Prime Minister and Deputy Prime Minister concentrated on governing the country, rather than being additionally burdened by time-consuming ceremonial matters. In addition, the Prime Minister could not and should not have the power to call a general election if there is a parliamentary or political impasse to be resolved because it will necessarily involve her or his own government and thus a serious conflict of interest.

4.4 Thirdly, the distances and time involved in travelling to ceremonial and representational events outside Australia mean that it is efficient to have a person whose job it is to do just that.

4.5 The role of head of state at the apex of government as proposed by WfaAR would be reduced to a largely ceremonial one with removal of the following powers attaching to the Irish President: head of the armed forces; prerogative of mercy; President of the Executive Council (in fact, Executive Council would be abolished); bills should be signed into law by head of government; removing the concept of hierarchy and reinforcing the role of the elected government, not second-guessed or dependent on another (possibly unelected) person to endorse its actions taken on behalf of the people.

4.6 This would correspondingly require a lower salary, superannuation and more modest maintenance of a “non vice-regal” lifestyle (Note 3). The Rolls Royces could be sold and replaced with vehicles of more modest design and significance and a more Australian operating style implemented at Commonwealth House, formerly Government House at Yarralumla. This should not be costly ie it will not be necessary to replace the dining room silver just because it is decorated with crowns; likewise, the EIIR insignia and crowns on the staff lapel pins and jackets could simply be replaced by the Republic’s coat of arms.

4.7 WfaAR believes that although it would not be practical, at this stage, to completely remove the role of head of state from our political system because it would be too much change too quickly and likely to be greeted with great suspicion by voters, a reduced head of state role which is largely ceremonial, will continue to be required in the foreseeable future.

5. WfaAR’s Process for the Republic (see also Attachments B and C)

5.1 WfaAR proposes and supports the following model for the move to a Republic (modified Corowa A, which we supported at the Corowa People’s Conference).

We envisage a process over three years with sequential steps as follows:

- (i) A multi-party Australian Parliament Joint Committee prepares for plebiscite
- (ii) Plebiscite
- (iii) [Second plebiscite held if necessary]

- (iv) An elected Constitutional Convention drafts the constitutional amendment/s reflecting the plebiscite results and deals with other issues such as the implementation of the Republic in the States
- (v) Referendum

5.2 Subtle changes to the Corowa A wording for the first plebiscite are proposed: for instance, asking the first question without reference to an Australian head of state ie moving from the 1999 approach; asking if the head of state should be called something other than President or Governor-General; asking separately if the powers should be codified - not included in Corowa A other than as an afterthought to the question about direct election - and about the selection method: putting direct election first as a clear statement of that method for selecting the head of state.

5.3 If results from the first plebiscite are not clear-cut, then a second and subsequent plebiscites should be held until they are.

5.4 WfaAR does have concerns that the first plebiscite, in particular, runs the risk of being substituted for the referendum. The intensity of the debate in the lead-up to the 1999 referendum suggests to WfaAR that there will be a strong NO case run against all the plebiscites. Special effort will need to be put in to convince voters that the plebiscite is non-binding; gentle but positive and trustworthy political leadership is the ingredient needed here. There must be risks associated with asking the question about whether Australia should become a Republic (with or without the associated question about having an Australian head of state) because the nay-sayers will likely lead the charge that agreeing to this proposition means that you don't know what kind of a Republic is on offer and therefore, the question should be rejected.

5.5 An elected Constitutional Convention should be the first of regular gatherings to consider matters and problems arising from the Constitution. The first one would consider issues associated with the establishment of the Republic including the role of the States and measures necessary or desirable to implement the Republic in the States. The following conventions would also have a role to review the development of the Republic and monitor changes in the expectations of the people from the time of its establishment.

5.6 There have so far been two recent Women's Constitutional Conventions held, one in 1998 and one in 2002. Both have recommended the holding of regular Constitutional Conventions with 50% of delegates being women (Note 4). WfaAR adds that all the delegates should be elected.

5.7 WfaAR further considers that all matters and statements used in drafting for the plebiscites and referendums should be in plain English and simply expressed. Some members of the community may need special assistance or methods to allow them to participate in the votes. For instance, use of a legal Latin term such as "plebiscite" will alienate many voters. For example, this word should be changed to "non-binding vote".

6. WfaAR's Process for Selecting the Head of State

6.1 Given the recent history of the Republic debate, it is inconceivable that in the next five years, any referendum on a Republic could ignore the issue of appointment/selection of the head of state. Who could or should “get the power and kudos” is, regrettably, of greater interest to voters and, indeed, Republic supporters than whether Australia should have a republican form of government.

6.2 WfaAR abhors the increasing tendency for our political system, strongly aided and abetted by the media, to be adversarial and confrontational and strongly personality based - in fact promoting behaviours which appeal to men and at which they excel. This is spilling over to the Republic debate where the Republic is increasingly viewed by politicians and voters alike as a contest between two powerful figures - almost certain to be male for the foreseeable future – that is between the appointed or selected head of state and the Prime Minister of the day. To deal with this perception, WfaAR proposes that the selection process should be low-key and modest in costs; that voting should be voluntary to remove any suggestion that the head of state has a political mandate and that women should have an equal opportunity to become head of state.

6.3 In considering the head of state position, WfaAR detects that there are four major sticking points about the models for the Republic:

- a) whether the people or politicians get to choose the head of state
- b) whether the head of state would have a political mandate which could rival or exceed the head of government if directly elected, noting that the Prime Minister is not elected by the people to the position of head of government.
- c) costs
- d) self-serving behaviour by the establishment, including government.

6.4 First, it now appears highly likely that the Australian electorate is not likely to tolerate any further proposals for selection of the head of state by the Prime Minister or a joint sitting of both houses of the Federal Parliament or moves to manoeuvre this option as the preferred or single choice. The question of a Republic and the method preferred by voters for choosing the head of state now needs to be tested conclusively in the first plebiscite as outlined above.

6.5 Secondly, the head of state role can be significantly reduced by making voting for the head of state *voluntary* and by reducing the role of the head of state to largely ceremonial duties. A further advantage of voluntary voting is that if the selection of head of state gets out of sync at any time with elections for the Senate, it can be conducted using postal votes similar to the system used to elect the delegates to the Constitutional Convention in 1998 or by using online voting.

6.6 WfaAR concludes that a vastly reduced role of “real power” for the head of state due to carrying out mainly ceremonial duties and the lack of a mandate from a non-compulsory direct vote, complemented by payment of a modestly appropriate salary, for example: equivalent to federal parliamentary backbenchers, would serve to almost completely de-politicise the role, thereby severely reduce interest in it by political parties and politicians.

7. Conclusion

7.1 WfaAR believes at that the beginning of the 21st century, Australia is in a position – finally - to move on from the founding constitution of its Federation. The circumstances of contemporary national and international government, the speed of communications, and our growth as an independent and well –educated, uniquely located nation create hopes for a more just and fair society, which is more flexibly and modernly governed. A republican constitution should enshrine the rights of all of our citizens, most especially women.

7.2 The proposals outlined above, particularly those directed to an efficient and low-cost approach to advancing the move to an Australian Republic and to removing current deadlocks in the republican debate, are intended to advance our country according to the desires of her female citizens.

7.3 Given Australia's diverse influences and population, moving to a Republic without further delay through a series of non-binding indicative votes followed by a referendum will enable women to fully participate in creating the Great Republic of the Southern Seas (Note 5).

Women for An Australian Republic
www.womenrep.netspeed.com.au

Notes

1. Our website can be found at www.womenrep.netspeed.com.au. The WfaAR website is included in the PANDORA online archive held by the National Library of Australia.
2. The 1999 poll was conducted by a Sydney tabloid newspaper just before the 1999 referendum and found that 90% of respondents favoured replacing the Queen with an Australian head of state.
3. WfaAR notes that the most effective, practical action towards a Republic was taken - largely unheralded although not without controversy at the time - when the Carr Government was elected in New South Wales in 1994. Shortly after the election, the State Governor was converted to a part-time job with the incumbent living in his or her own home. Government House in Sydney was handed over for use by the citizens of NSW as well as the Governor and State Government for official functions.
4. Women's Constitutional Convention 1998, refer to Pandora archive at NLA: <http://pandora.nla.gov.au/tep/10129>

Women's Constitutional Convention 2002, refer to www.wcc2002.asn.au

5. "...there are hearts in the community stirred by the thrilling touch of patriotism for this great land, and...an increasing number of Australians whose hope and aim is to give to the world...the Flag of a Federated Australia, the great Republic of the Southern Seas."

Leading article in the first issue of the *Republican*, begun by Louisa and Henry Lawson in 1887.

Quoted in: Oldfield, Audrey (1999) *The Great Republic of the Southern Seas, Republicans in Nineteenth-Century Australia*. Alexandria NSW, Hale and Ironmonger.

Women for an Australian Republic

Women for an Australian Republic exists online providing news, views and information for women about the Republic.

We supported a YES vote in the 1999 referendum and were a member of the YES Coalition of republican groups working together for the YES case.

We believed that a YES vote was important in 1999 to start the process of change which would have led to better government and civic involvement for all who live and work in this country.

We do not support the current constitutional monarchy where determining the head of state is discriminatory because a woman can only become Queen if she has no brothers and because women have no say in the selection of the monarch.

We supported the model proposed at the Constitutional Convention in 1998 for the selection of the President by public nomination. We wanted equal participation by women in all parts of the nomination process with at least half of the Presidential Nominations Committee to be female.

We supported the 1999 referendum proposal where the nomination of the President was to be approved by two-thirds of a joint sitting of Federal Parliament because we believe that it offers the best chance for a woman or an Indigenous person to be chosen in the shortest possible time. We also support further consideration of head of state models at future Constitutional Conventions.

Since that time, we recognise that there is more community support for direct election of the head of state and that this is likely to be the only successful selection method to be put at a referendum in the future. We also support that model provided that women can participate equally in the development of a Republic with a directly elected head of state and have an equal chance with men to become head of state under this model.

Our view is that the preamble to a new constitution must contain a clear expression of the equality of women and men and recognise the prior occupation and custodianship of our country by our Indigenous peoples. We cannot support a preamble which contains the word “mateship”.

We support the outcomes of the Women’s Constitutional Conventions held in January 1998 and June 2002.

We support full participation by women in all processes leading up to the Republic and the processes for selection of the head of state.

We encourage all Australian women citizens to consider putting themselves forward for nomination to the office of head of state. We want the first head of state of an Australian Republic to be female.

We are a member of the Australian Women's Constitutional Network which lobbies governments on all aspects of the Republic and women's participation in its development and establishment.

We provide a wide range of information from republican and women's groups across the spectrum of views on Australia's future as a Republic.

We are particularly interested in publicising and promoting women's opinions on the Republic and in the debate which surrounds it.

Women for an Australian Republic is supported by an advisory group of women lawyers and women active in promoting women's participation in politics and decision-making.

JOINT PROPOSAL FOR EFFECTING CONSTITUTIONAL CHANGE AND SELECTING AN AUSTRALIAN HEAD OF STATE.

from

Women Into Politics and Women's Electoral Lobby 7th November 2001

The purpose of this proposal is for women to be fully engaged and full participants in the process and in the process outcomes of Constitutional change.

Women's voices are frequently absent from major political and decision-making events. These events are usually based on invited lists of eminent persons from which women are in general omitted because of past discrimination against them in holding high-level public and private positions. This practice must not continue.

The proposal is cognizant of (1) the *Outcomes* Statement and the papers read at the Women's Constitutional Convention, (WCC) Canberra, 29 & 30 January 1998. Approx. 280 women from all around Australia, from many non-government organizations attended the Convention and (2) the processes and outcomes of the Australian Constitutional Convention 1998.

The *Outcomes* from the Women's Constitutional Convention were supported by the majority of women attending. The Women's Constitutional Convention covered a wide range of matters such as the introduction of changes to the Constitution, a preamble to the Constitution, the introduction of a Bill of Rights, Electoral Reform, etc. Those interested in viewing the full document may visit the website:
<http://www.womensconv.dynamite.com.au>.

Principles of any Constitutional Change

“The principles which must be adhered to in all constitutional changes are:

- full recognition of indigenous Australians,

- gender equity in all *processes of change*. That is, in all mechanisms for developing, evaluating and finalising options for change and in the operation of processes for selection of the Head of State,
- gender equity must also be *promoted by the outcomes*. That is, *the effect* of a move to a Republic and any other constitutional changes must promote women's equality in society,
- respect for diversity including cultural, religious, and sexual diversity, and
- the need to ensure that social cohesion, political stability and our democratic culture are promoted.” (WCC **Outcomes statement**)

Selection of the Head of State

“The selection / appointment process for the Head of State *must involve women at least to the same extent as men*. This means, for example, that if selection / appointment involves an advisory or determinative college that women must be represented at least to the same extent as men.

“The selection / appointment process for the Head of State must guarantee that women's *chances of occupying the position* are substantively equal to those of men. For example, the selection process should address and overcome matters such as women's disadvantaged status in political parties, women's inferior financial power, women's restricted access to the media.” (WCC **Outcomes statement**)

Powers of the Head of State

“The powers of the Head of State should be no greater than those of the current Governor-General.

There should be strong emphasis on the importance of the ceremonial role as a source of social cohesion and unity” (WCC **Outcomes statement**)

We are in agreement with these principles and recommendations from the Women’s’ Constitution Convention. They are important considerations when effecting Constitutional reform.

Method of electing and/or selecting a Head of State

Any referendum on methods of electing and/or selecting a Head of State will need to be workable, allow voters to participate in the process, be cost effective options and minimise the role of the somewhat discredited political parties.

Therefore we recommend that:

- assuming that each Head of State is elected and/or selected for a period of five or six years voter participation be synchronised with every second Federal election.
- the Head of State's term of office be coincidental with and limited to two terms of the Federal Parliament.

- each electorate elect two representatives, one male, one female, to an *Assembly to Elect the Head of State* to be eligible for election to the Assembly, the candidate must be a registered voter in the electorate; must be nominated by ten other similarly registered voters, must not be a person with a current party political affiliation.
- the role of the Assembly is to elect a Head of State from those persons nominated by their fellow citizens.
- the Australian Electoral Commission in association with a retired Head of State (or retired Governor's-General), a retired High Court Judge and six nominees of national community organisations, appointed only for one selection/election, administer this process, ensuring that candidates meet the selection criteria, preparing the material submitted by those nominating candidates and distributing it to elected representatives.
- the actual selecting/electing a Head of State by the members of the Assembly be done by postal or electronic voting.
- persons elected to the Assembly to select/elect the Head of State and persons administering the process, be required to take an oath of secrecy to maintain confidentiality concerning persons nominated for selection as Head of State with the penalty for breaches of confidentiality be a punitive fine and removal from the process.
- the Head of State's term of office be coincidental with and limited to two terms of the Federal Parliament.
- the role of the Federal Parliament be confined to confirming the appointment of the Head of State.

This proposal would probably satisfy voters' need to be involved in the process. Expenses for all positions to be determined at an appropriate time. This proposal has the added merits of being relatively inexpensive; involves only 2 (one male, one female) persons to each electorate, approximately 350 persons, encourages the maintenance of confidentiality; reduces opportunities for lobbying by supporters. The process also ensures that candidates are protected from publicity and humiliation if not selected and minimalises the role of the political parties - the latter our perceived source of voter dissatisfaction after the 1998 Constitutional Referendum.

Nominations and candidature for Head of State

For selection or election as Head of State, we recommend that a person should:

- be a citizen of the Commonwealth of Australia
- not have recent party political affiliation
- have a record of public service in an area or areas, not only and preferably in other than his or her area of training and regular paid employment. Note, a record in public service in the community services sector would have to rate as highly as a record in the Treasury Dept.

- be a person of recognised strength, independence and integrity, with a record of public voluntary service to community, professional organisation, union, or business organisation.
- be committed to democratic, inclusive and multicultural values
- not be subject to a religious test but also not be a person of known illiberal or restrictive religious views
- not be a serving politician at the time of nomination
- be nominated by at least ten citizens, under conditions of confidentiality, similar to nominations for Australian Honours system.

This recommendation maintains the independence of the Head of State similar to that of the current Governor General; maintains the tradition of having a distinguished and inspirational person similar to past Governors-General and maintains the confidentiality of the process so that suitably qualified persons will allow their names to go forward, without the any risk of subsequent embarrassment if they are not selected.

Changing the Constitution by Referendum

The Australian Constitution requires that any constitutional change be put to referendum.

Subsequent to the 1998 Referendum on the question of a republic, it was clear that the Australian public were dissatisfied with the questions put and further that they wanted to participate in the selection of a Head of State.

Therefore we recommend that any referendum or referendums should include options and these options must be expressed simply and require definitive answers. Quoting parts of the Constitution by section and number in a question is elitist and irrelevant and a means of confusing and disenfranchising many voters.

Example:

Should Australia become a republic? YES or NO

Should Australian voters participate directly in the election of a Head of State? YES or NO

If NO,

Should Australians vote to elect 2 persons from their electorate to represent them in selecting select a Head of State? YES or NO

Full and effective participation

We also propose that the process should include civic education as outlined in this Women's Constitutional Convention's *Outcomes* statement:

“That in order for the whole community to participate effectively in considering whether *additional* constitutional reform occurs, there must be an active, effective and immediate process of civic education which fully addresses diverse community needs including accessibility issues related to literacy and language.

“That the government facilitate and assist to resource women's participation in constitutional change and broad awareness of women's concerns following on from the Women's Constitutional Convention.”

EXECUTIVE SUMMARY

This proposal is made on behalf of women by Women Into Politics and the Women’s Electoral Lobby.

The purpose of this proposal is to offer a model for selecting an Australian Head of State that ensures that Australian voters, especially women, are full participants in the constitutional change process, and also that they are equally considered for the position of Head of State. Any process, which the conference proposes, must address the serious undervaluing of women’s expertise and contribution.

Our proposal requires a process of community education and offers an open, transparent and relatively inexpensive process for nomination and election/selection of a Head of State. Our proposal puts forward a process that we consider will have the respect of Australian voters.

We appreciate the opportunity of being able to submit this proposal.

Joan Bielski, AM
For Women Into Politics

Anne Barber
for Women’s Electoral Lobby
